

**REMARKS CONCERNING THE AMENDMENTS**

Although new limitations were added to claim 1 in the Amendment after final, that amendment does not add new issues to the consideration of the claims or require additional search and consideration. That amendment was already present in the claims that have been examined, and have been specifically addressed in claims 3, 6-15 and 20. It is assumed that this rejection under 35 USC 102(e) as anticipated by Brunelle will be converted to the rejection under 35 USC 103(a) as unpatentable over Brunelle in view of Jones as set forth in the Office Action.

## RESPONSE TO THE OFFICE ACTION

### SUMMARY OF NEWLY DEFINED ARGUMENTS

The rejection of Claims 1, 2, 4, 5 and 16-19 under 35 USC 102(e), now considered to be a rejection under 35 USC 102(a) over Brunelle in view of Jones.

**FIRST – Claim 1**, as amended, recites “when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player’s placed optional side bet bonus wager.” This recitation means that the player attains (is awarded) a first bonus amount on the player’s side bet bonus wager when the player’s hand achieves a first rank. This does not occur in Brunelle. Player’s initial hands can win only on their game bet, when the player hand wins against the dealer’s hand. Although the size of the payout may be dependent upon a combination of analysis of player’s hand count and dealer’s hand count, **THERE IS NO PAYOUT EXCLUSIVELY BASED ON A PLAYER’S WINNING POKER HAND RANK.** Look at the two tables on columns 5, 6, 7 and 8 of Brunelle. Table I shows a single payout on lines 1-5 of columns 7 and 8, with all other information in the table limited to strategy of play. All payouts shown in Table II are based upon combined counts in the player’s hand and the bonus hand. There is no individual winning amount for a predetermined arrangement of cards. Brunelle fails to teach this limitation, and the claim, as amended, cannot be anticipated and as further evidenced and argued below, is not obvious.

**SECOND -** Claim 1 recites “when the player has a winning arrangement of cards comprising a preselected winning poker rank, and the first number of cards has at least a winning arrangement of cards.” Advancement into the bonus round by Brunelle, because the first hand does not receive any payment on the bonus round because of its own rank, and because the winning event (with a payout to the player in the player’s hand only) is direct play against the dealer’s hand, Brunelle does not have any “predetermined winning arrangement” of cards. Brunelle has a qualifying count (which does not get a payment and therefore doesn’t win), or happens to win against the dealer’s count (which is not predetermined). Brunelle fails to teach this limitation, and the claim cannot be anticipated.

**THIRD – Claim 1 finally recites** “when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player.” This limitation has two elements not taught by Brunelle. First, the claim requires both a winning arrangement of cards and the first number of cards (the bonus hand) to have a predetermined winning arrangement of cards. As noted, there is no winning arrangement of cards in the player’s hand, only a qualifying count, for which the player is not paid. Next, the claim requires “enhancing the first bonus amount level attained by the player.” As the player in Brunelle cannot win money based solely on the count of the player’s hand, but may only qualify for a later payment with a qualifying maximum total, there is never any “first bonus amount level attained by the player.” Additionally, when Brunelle wins on the relative cumulative count of the player’s hand versus the dealer’s hand, this is not a win under the bonus wager side bet as recited in the claim, but is a win on the ante or play wagers. Brunelle fails to teach this limitation, and the claim cannot be anticipated.

**The Rejection of Claims 1, 2, 4, 5 and 16-19 Under 35 USC 102(e) As Anticipated by Brunelle**

It is first of interest to compare the actual teachings of Brunelle (e.g., in the Abstract and specification, not merely the claims) to the teachings of Brunelle as asserted in the Office Action (OA).

QUOTED TEXT FROM BRUNELLE (Abstract)	QUOTED DESCRIPTION IN OA	COMMENTS
A wagering card game	“...live casino card game...”	Equivalent
Each player makes a bet.	“...a player makes a wager...”	Equivalent
Three cards are dealt face down to each player, to the dealer and to the bonus hand.	A first number of three cards is dealt to a bonus hand position, player, and to a dealer.	Equivalent
The dealer combines his dealt cards with his count limit card and states his total.	The player plays against the dealer hand for rank 56.	A Cumulative Count is a single number, and the individual cards that result in that count are immaterial, and does not equal “predetermined winning arrangement” in

		<b>card games. An arrangement, and now a poker rank, requires a combination and relation of individual card values and suits examined together.</b>
The dealer then turns over each player's cards one at a time, compares each player's hand with the dealer's hand, determines whether the player is a loser or winner.	"After comparison with the dealer hand is resolved,..."	<b>This step is erroneous with respect to the limitations of claim 1 (later discussed) as there is no dealer hand. Claim 9, which the Examiner cites as showing a dealer's hand is not related in dependency to this claim, and its recitations have no bearing on this claim.</b>
Any player who placed a bonus ante having a total less than or equal to a predetermined bonus count value (for example 9) is eligible for the bonus hand.	"...if the player hand has at least a predetermined 'winning arrangement of cards,' the player attains at least a bonus amount level on the player's placed optional side bet bonus wager..." (emphasis added)	<b>the count of Brunelle is not a 'winning arrangement of cards.' Brunelle sums individual hands into single numbers (count), and compares the counts of hands for direct win-loss event. Brunelle does not require a "winning" event to advance, but requires only the bonus ante and a hand count total less than a count of 9 to have the win/loss in a bonus evaluated. A hand count total of less than 9 is not necessarily a winning event, as it can be beaten by the dealer's count.</b>
The dealer turns over the bonus hand cards and announces the bonus hand total.	No specific comment is made, but it is implied that the bonus hand is revealed.	<b>Equivalent</b>
The dealer then refers to a bonus payout table and pays according to the payout value which matches with the player hand total and the bonus hand total.	"When the player has a winning arrangement of cards and the bonus hand 26 has at least a winning arrangement of cards, the bonus award paid to the player is enhanced by a	<b><u>The bonus payment is not dependent on winning, but on a count of less than 9, which does not necessarily or automatically win.</u></b>

	predetermined rank being present in the bonus hand..."	
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As can be seen from this comparison, the reference does not actually teach what the Office Action asserts. As the failures in the actual teachings differ from critical assertions in the rejection, that rejection must fail as an anticipation of the claims. A further comparison of what the reference actually teaches and what is claimed is made below to further show the patentability of the claims.

CLAIM 1	TEACHINGS OF BRUNELLE	COMMENTS
A method of playing a live casino card game with a bonus game component comprising:	A wagering card game	
a player making a wager to play in the live casino card game and placing an optional side bet bonus wager on the bonus game component;	Each player makes a bet.	
a first number of cards are dealt to a bonus hand position; a second number of cards are dealt to the player,	Three cards are dealt face down to each player, to the dealer and to the bonus hand.	
	The dealer combines his dealt cards with his count limit card and states his total.	<b>There is no dealer hand or count total, or count limit card in Applicant's claims.</b>
when the player hand has at least a predetermined winning arrangement of cards, the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager;	The dealer then turns over each player's cards one at a time, compares each player's hand with the dealer's hand, determines whether the player is a loser or winner.	<b>The win/loss event is based solely upon the rank of a hand. All awards and amounts of awards are based on rank. There is no comparison with a non-existent dealer's hand.</b>
when the player has a winning arrangement of cards	Any player who placed a bonus ante having a total less than or equal to a predetermined bonus count value (for example 9) is eligible for the bonus hand.	<b>Advancement in potential awards occurs with a winning arrangement of cards, not a count total of cards.</b>
	The dealer turns over the	<b>The bonus hand rank is</b>

	bonus hand cards and announces the bonus hand total.	<b>displayed. There is no count involved.</b>
and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player.	The dealer then refers to a bonus payout table and pays according to the payout value which matches with the player hand total and the bonus hand total.	<b>There are no winning arrangements of cards, but only a count required by Brunelle. The player hand does not need to win to advance to a bonus consideration, but only need have a count less than 9.</b>

As can be seen, there is a failure in the disclosure of Brunelle to teach the limitations of the claim 1 as originally filed. **There are three critical and interrelated features required by Brunelle that cause the reference to fail to anticipate specific recitations in claim 1.**

**FIRST – Claim 1** recites “when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player’s placed optional side bet bonus wager.” This recitation means that the player attains (is awarded) a first bonus amount on the player’s side bet bonus wager when the player’s hand achieves a first rank. This does not occur in Brunnelle. Player’s initial hands can win only on their game bet, when the player hand wins against the dealer’s hand. Although the size of the payout may be dependent upon a combination of analysis of player’s hand count and dealer’s hand count, **THERE IS NO PAYOUT EXCLUSIVELY BASED ON A PLAYER’S PRESELECTED WINNING POKER HAND RANK.** Look at the two tables on columns 5, 6, 7 and 8 of Brunelle. Table I shows a single payout on lines 1-5 of columns 7 and 8, with all other information in the table limited to strategy of play. All payouts shown in Table II are based upon combined counts in the player’s hand and the bonus hand. There is no individual winning amount for a predetermined arrangement of cards. Brunelle fails to teach this limitation, and the claim cannot be anticipated.

**SECOND - Claim 1** recites “when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards.” Advancement into the bonus round by Brunelle, because the first hand does not receive any payment on the

bonus round because of its own rank, and because the winning event (with a payout to the player in the player's hand only) is direct play against the dealer's hand, Brunelle does not have any "predetermined winning arrangement" of cards. Brunelle has a qualifying count (which does not get a payment and therefore doesn't win), or happens to win against the dealer's count (which is not predetermined). Brunelle fails to teach this limitation, and the claim cannot be anticipated.

**THIRD – Claim 1 finally recites** "when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player." This limitation has two elements not taught by Brunelle. First, the claim requires both a winning arrangement of cards and the first number of cards (the bonus hand) to have a predetermined winning arrangement of cards. As noted, there is no winning arrangement of cards in the player's hand, only a qualifying count, for which the player is not paid. Next, the claim requires "enhancing the first bonus amount level attained by the player." As the player in Brunelle cannot win money based solely on the count of the player's hand, but may only qualify for a later payment with a qualifying maximum total, there is never any "first bonus amount level attained by the player." Additionally, when Brunelle wins on the relative rank of the player's hand versus the dealer's hand, this is not a win under the bonus wager side bet as recited in the claim, but is a win on the ante or play wagers. Brunelle fails to teach this limitation, and the claim cannot be anticipated.

With respect to the issue of whether a cumulative count equals rank, it is of note that Brunelle specifically states:

"The dealer then turns over each player's three cards, one at a time and determines winning hands, block 56. A winning hand is defined as any hand which has a total count value which is less than the total count value of the dealer's hand. At this time, the dealer resolves all table bets according to a regular pay-out schedule, on an even money (1-to-1) basis for all winning hands (except for a hand of three aces which pays 30-to-1). Players whose total is greater than that of the dealer will lose their bets and players whose total is equal to the dealer's total will 'push.'"

This is clearly not a teaching of rank for a winning hand. Brunelle teaches a game where only count is considered for payment on a first win by a player. Even where the best hand is three Aces, the hand is best because those cards have a count of 3. It is absolutely

clear that Brunelle does not anticipate claim 1. To that end, Brunelle cannot anticipate claims 2, 4-5, and 16-19 which are dependent from claim 1 and are not obvious from the addition of Jones, as more explicitly shown below.

### **The Rejection of Claims As Unpatentable over Brunelle in View of Jones**

Claims 3, 6-15 and 20 have been rejected under 35 USC 103(a) as unpatentable over Brunelle in view of Jones (041) as Brunelle was applied against claims dependent from claim 19 above.

As noted, Brunelle in combination with Jones fails to teach the actual limitations taught by claims 1 and 9, as shown immediately below.

With respect to claims 9-12, with claim 9 being the independent claim in this group, claim 9 recites:

“A method of playing a casino table poker-type card game wherein a bonus hand, a dealer’s hand and a player’s hand are dealt,  
wherein the player plays against the dealer’s hand for rank and  
the player may have a bonus award to be paid on the player’s hand  
enhanced by a predetermined rank being present in the bonus hand.”

Brunelle does not teach “poker-type card games.” Brunelle teaches only a count game (similar to blackjack or baccarat), and therefore claims 9-12 cannot be anticipated. There is no discussion of rank. Three Aces is a good hand in Brunelle because it has the lowest count of 3, not because it has a poker rank of three-of-a-kind.

Please also note the absence in Brunelle and Jones of the **SECOND** and **THIRD** issues discussed above. Those claim limitations are clearly absent from Brunelle (as detailed above) and from Jones, which does not have multiple hands against which the player engages, and therefore cannot have the bonus hand emphasized in those limits.

The clearly identified differences in actual rules and steps of play between claim 1 and the teachings of Brunelle and the failure of the teachings of claim 1 is so great that, even with every teaching of Jones (041) asserted in the Office Action to be assumed, *arguendo*, to be accurate, the rejection would still fail. Jones (041) cannot overcome the deficiencies of Brunelle with respect to the recitations of claims 1 (and all dependent claims) as noted above, including of the **SECOND** and **THIRD** issues discussed above.

With respect to claims 9-12, Jones (041) does at least add one teaching of merit, and that is the use of poker-type games in casino table wagering environments. However, even the potential “**combination**” of Brunelle and Jones (041) cannot be done with any reasoned motivation from the two references, nor can the references be easily combined

to show obviousness in the limitations of claim 9. Additionally, the fundamental underlying event of winning an award from the player's hand on the bonus bet, as opposed to on the ordinary wager, is not taught by either reference. Note that the claim 1 limitation is "the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager." This does not occur in Brunelle, and does not occur in Jones. This limitation cannot be obvious from the teachings of the references, even in combination.

Jones (041) as with Brunelle teaches that the bonus bet award is based solely on the existence of the bonus bet (all hands are considered when there is a bonus bet). In Brunelle, the bonus award is based on the required maximum count of the player hand (9 or less) plus the combined count of the player hand and the bonus hand. This is totally outside the realm of any interpretation of the limitations in claim 9.

In Jones (041), the player does not have to win (which with a "bonus award to be paid on the player's hand" as recited in claim 9, a winning hand must first be achieved for there to be an enhancement by a bonus schedule based upon the bonus hand) for the independent bonus to be awarded. In Jones (041), the bonus award is paid independently of any winning or losing event between the player hand and the dealer hand. For example, in Jones (041), the player may have a hand rank of four-of-a-kind, lose to a dealer's straight flush, and then receive a bonus award based on the four-of-a-kind, even though the player lost the underlying game.

In claim 9, it is required that "...a bonus award [is] to be paid on the player's hand [and is to be] enhanced by a predetermined rank being present in the bonus hand ..." This limitation is absent from the teachings of both Brunelle (where a hand count of 9 or less is required for bonus consideration, and that may or may not be a winning hand, and may or may not have any award, much less a bonus award, (which is paid for only Three Aces) and Jones (041), where the only bonus consideration qualifying event is a bonus wager and a bonus rank. The bonus award on the bonus bet is independent of any initial payment made on a poker hand to a player based on rank or winning against a dealer hand.

With respect to the combination of Brunelle in view of Jones (041), claims 3, 6-8 and 13-15 are not obvious over any combination motivated by the references. The rejection is in error and must be withdrawn.

### **New Claim 20**

New claim 20 finds antecedent basis in original claim 1 and the specification in general. The limitations in this claim should not be considered in any way to be an attempt to limit the scope of claims 1-19, but rather is merely an attempt to claim what is clearly a narrower scope of claimed technology than claim 1. This claim is additionally patentable over Brunelle and Brunelle in view of Jones (041) by specifically limiting play to two hands (as between each player and the house, with only a player hand and bonus hand). This excludes the player versus dealer competition in both Brunelle and Jones (041).

## CONCLUSION

Entry of the amendments is respectfully requested as they add no new issues to the application. All rejections have been shown to be in error. All claims should be allowed. If the Examiner believes that any remaining issues may be resolved by a telephone call with the attorney of record, he is courteously invited to call the attorney below at **952.832.9090** Central Standard time zone.

Respectfully submitted,

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